

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 492 OF 1995

BETWEEN: (1) JEREMY ARCHER
(2) KEVIN WRIGHT
(3) CHADWICK EBANKS



Plaintiffs

AND: (1) AVALON BUSH
(2) KATHLEEN BUSH

Defendants

WRIT OF SUMMONS

TO: Avalon Bush

AND TO: Kathleen Bush

AND TO: Cayman Insurance Centre Ltd.
Cayman Business Park
George Town, Grand Cayman



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within Fourteen days [14] after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 01st day of November, 1995.

NOTE - This Writ may not be served later than 4 calendar month beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiffs are and were at all material times, residents of Grand Cayman.
2. The Defendants were, at all material times, residents of Grand Cayman.
3. On the 25th November, 1994, the First Plaintiff was the driver of a Toyota Corolla motor vehicle registration no. 52 219. The Second and Third Plaintiffs were passengers in the said motor vehicle. At approximately 10:30 p.m. in the vicinity of Sundowners Condominiums on West Bay Road, Grand Cayman, the motor vehicle in which the Plaintiffs were travelling collided with a Hyundai Scoupe motor vehicle registration no. 51 188 driven by the First Defendant as servant and agent of the Second Defendant. The said motor vehicle is registered in the name of the Second Defendant and insured with Cayman Insurance Centre Ltd. The First Defendant had ventured into the pathway of the motor vehicle in which the Plaintiffs were travelling.
4. That the said collision was caused by the negligence and breach of duty of care of the First Defendant in and about the driving, management and control of the said motor vehicle.

PARTICULARS OF NEGLIGENCE

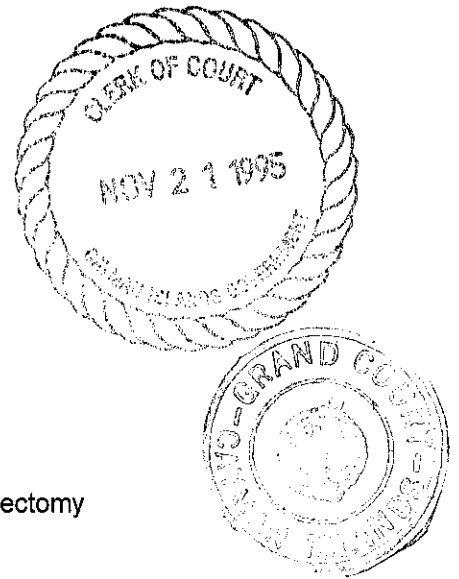
- a. The First Defendant failed, at the relevant time, to keep to the left hand side of the road.
- b. The First Defendant failed to have any, or any proper, regard for the other road users in general, and in particular, for the vehicle in which the Plaintiffs were travelling.
- c. The First Defendant failed to keep any, or any proper, look out and/or to observe and/or heed the presence of other road users in general when he knew or ought to have known that vehicles would be or were coming from the opposite direction.
- d. The First Defendant drove at an excessive speed in all the circumstances of the case.
- e. The First Defendant failed to maintain proper control of his motor vehicle.
- f. The First Defendant failed to stop, slow down, to swerve or in any other way so to manage or control the said motor vehicle as to avoid the collision.
- g. The Plaintiffs will further rely upon the maxim "*res ipsa loquitur*".

5. Further, the First Defendant has been charged with the offence of Dangerous Driving under the provisions of The Traffic Law, and as at today's date, the matter is still pending in the Courts. The said Charge is relevant to the issue of negligence and the Plaintiff's intend to rely thereon and on the Traffic Accident Preliminary Report no. TAR 670/94 as evidenced in this action.
6. By reason of the First Defendant's negligence and breach of duty of care, the Plaintiffs have suffered severe personal injuries, mental and emotional trauma and, consequently, loss and damage for which the First and Second Defendants are responsible.

PARTICULARS OF INJURIES

(1) Plaintiff

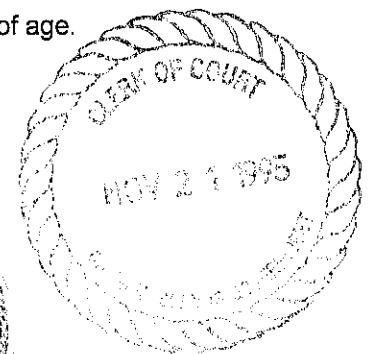
- a) Multiple trauma and severe injuries including but not limited to:
 - i. Fractured Skull (open and closed)
 - ii. Fracture of the tibia and fibula (L)
 - iii. Fracture of the right femur
 - iv. Fracture of the humerus
 - v. Liver laceration with Haemoperitoneum resulting in (R) hepatotomy
 - vi. Contused right lung with fractured Ribs (R) side
 - vii. Laceration to the scalp, upper lip, right eyebrow, and suprapatella pouch, right
 - viii. Loss of upper incisor (upper (R) central)
 - ix. Lacerated Diaphragm of the right dome
- b) The First Plaintiff will further rely on the various medical reports prepared by the different doctors who attended to him.
- c) The First Plaintiff was airlifted to Hollywood Memorial Hospital in Florida for treatment. He underwent extensive surgeries and examinations.
- d) Post-Operative Treatment included therapy and prescribed drugs, and close monitoring. The First Plaintiff was in hospitals for long periods.
- e) The First Plaintiff had further surgery for infection of osteomyelitis of (R) humerus.



- f) An intravenous central access port was inserted on the First Plaintiff's chest to facilitate medications for osteomyelitis. The First Plaintiff was placed on intravenous antibiotics for a period of 1 month, 3 times a day. There is a likely possibility of similar treatment in the future, therefore, the necessity for the port causes the First Plaintiff emotional distress.
- g) The First Plaintiff suffers now from arthritis in the hip and arm and all fracture sites will develop arthritis in the not too distant future.
- h) There is the risk of long-term liver failure, because of the damage to the First Plaintiff's liver.
- i) The First Plaintiff's lifestyle is limited. He must be cautious of the food he eats, and he must consciously guard himself from injuries. His right arm especially is prone to injuries as the bone is now thin and brittle. The First Plaintiff is right handed.
- j) The First Plaintiff used a cane to walk for a considerable length of time. He has a permanent limp.
- k) The First Plaintiff's physical activities previously enjoyed have now been curtailed or are extremely limited.
- l) The First Plaintiff has also undergone psychiatric treatment for severe depression as a direct result of the said accident and related injuries.
- m) At the time of the motor vehicle accident, the First Plaintiff was 17 years of age.
- n) The prognosis for the future is uncertain for the First Plaintiff.

(2) Plaintiff

- (a) Injuries included:-
 - i. Pain in right leg, knee and right lower side
 - ii. Abrasion on nasal area
 - iii. Abrasion on lower lips
 - iv. Injury to area around right eye



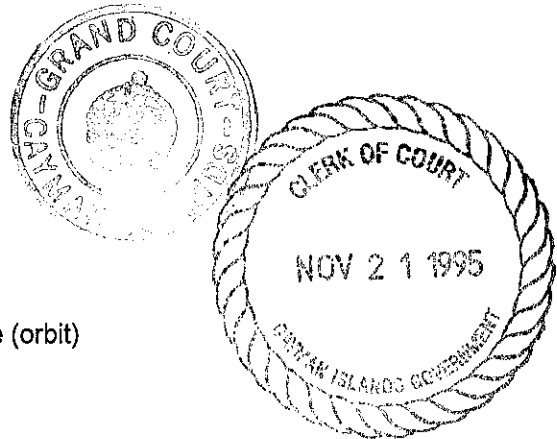
- b) The Second Plaintiff had a swollen and painful right eye for several days. The injuries to his lip caused pain and inconvenience for several days. He had difficulty eating. He also had a constant headache for 2-3 days after the said accident.
- c) The Second Plaintiff was treated with painkillers and remained at home until the injuries healed.
- d) At the time of the accident, the Second Plaintiff was 17 years of age.

(3) Plaintiff

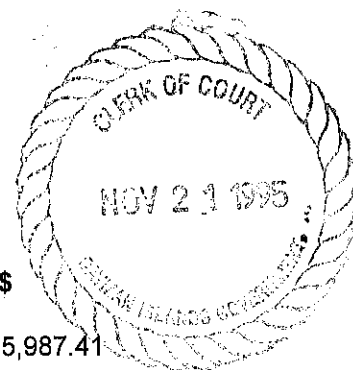
- a) Injuries included:-

- i. Injury to right side of face
- ii. Swelling, tenderness, abrasion to side of face (orbit)
- iii. Fracture to inferior margin of orbital rim
- iv. Fracture to maxillary left central incisor tooth
- v. Laceration on left chin

- b) The Third Plaintiff was treated by the Casualty Doctor after the accident and referred to an ear, nose and mouth (E.N.T.) specialist. He was also examined and treated by the E.N.T. Specialist. The Third Plaintiff also had dental work done to replace the crown on his left central incisor. The Third Plaintiff suffered headaches for several days, and was prescribed painkillers. He was unable to work for 2 week and was unable to partake in his regular social activities.
- c) As a direct result of the accident, the Third Plaintiff experiences fear and anxiety whilst driving or travelling as a passenger in a motor vehicle.
- d) At the time of the accident, the Third Plaintiff was 17 years of age.

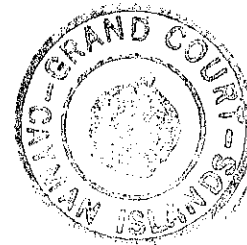


PARTICULARS OF SPECIAL DAMAGES



First Plaintiff

<u>Medical expenses:-</u>	US\$	CI\$
C.I. Authority		\$15,987.41
Overseas Medical Care:		
Hospital Expenses	\$155,594.04	
Miscellaneous:		
C.I. Government Traffic Report		\$25.00
Food	\$500.00 (est)	
Hotel	\$1,126.73	
Car rental	\$608.72	
Air fare	<u>\$995.80</u>	
	TOTAL	
	US\$158,825.29	CI\$ 16,012.41
		<u>CI\$133,413.24</u>
		CI\$149,425.65



(2) Plaintiff

C.I. Authority	TOTAL	CI\$ 200.00
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(3) Plaintiff

C.I. Authority		\$ 255.00
Dr. Wolfe		<u>\$ 375.00</u>
	TOTAL	CI\$ 630.00

AND THE PLAINTIFFS claim against the First and Second Defendants:-

1. SPECIAL DAMAGES:

By the First Plaintiff:	CI\$149,425.65.
By the Second Plaintiff:	CI\$ 200.00.
By the Third Plaintiff:	CI\$ 630.00.

TOTAL SPECIAL DAMAGES: CI\$150,255.65

By all three Plaintiffs:

1. General Damages;
2. Interest pursuant to the Judgment Debts (Rate of Interest) Rules 1995 at the rate of 8 3/8% on the amount found to be due to the Plaintiffs.
3. Such further and other relief.
4. Costs.

DATED this 21st day of November, 1995



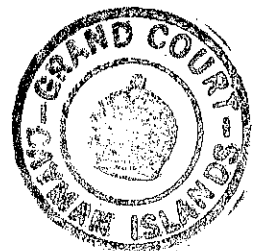
Quin & Hampson

QUIN & HAMPSON
Attorneys-at-Law for the Plaintiffs

To: The Clerk of the Court
Courts Office
George Town, Grand Cayman

And to: The Defendant,
Avalon Bush

And to: Cayman Insurance Centre Ltd.
Cayman Business Park
George Town, Grand Cayman



FILED by Messrs. Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is that of its said Attorneys-at-Law, Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.